FARAD CONTINUTION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
A.O.No.23l of 2006
with
Civil Appln no. 304 of 2006

| Office Notes,Office Memorandum of Coram appearence,Court's Orders & Directions and Registrar's Order | Court or Judge's Order |
|---|---|

Ms Seema Sarnaik for petitioner
Mr N V Bandiwadekar for respondent no.l

**CORAM; A.M.KHANWILKAR J.**

**DATED l3.4.2006**

**P.C.**

l. Heard parties. Admit. Mr. Bandiwadekar waives service for respondent no.l who is the contesting party. No relief is claimed against respondent nos. 2 to 8 for the time being for deciding the application Exh.5. Accordingly notice to the said respondents is dispensed with at the risk of the appellant.

2. The short question involved in this appeal is whether the trial court

was right in refusing interim relief to the appellant atleast to the extent of directing the respondent no.l to set apart or not withdraw the amount of compensation to the extent of l/5th share of the appellant therein. Mr. Bandiwadekar for the respondent no.l fairly states that if the relief is restricted to that extent, the respondent no.l will abide by the same till the disposal of the suit and shall not withdraw the amount of l/5th portion of the compensation deposited in court.

3. In so far as the said amount which is set apart being the share of the appellant is concerned, same will be allowed to be withdrawn by the appellant subject to such orders to be passed in the suit at the final hearing. Accordingly the appeal as also the civil application is disposed of with the direction to the respondent no.l not to withdraw the l/5th portion of the compensation but set apart the same towards the share

of the appellant herein.The said amount of l/5th portion of the compensation which remains deposited in court will be allowed to be withdrawn subject to the further orders to be passed by the trial court in that regard.

4. In so far as the other benefit received by the respondent no.l, allotment of alternate plot in lieu of the land belonging to the joint family acquired by the Corporation, same will be subject to the out come of the suit. In other words, the trial court will have to consider the issue whether the appellant should also be given proportionate benefit so availed by the respondent no.l, which issue will be decided on its own merits in accordance with law.

5. The trial court may consider expedite the hearing of the suit, if such request is made having regard to the nature of the controversy involved.